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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,486	02/16/2000	Timothy Robert Bratton	6037-003	5826

758   7590   06/28/2002

FENWICK & WEST LLP
TWO PALO ALTO SQUARE
PALO ALTO, CA 94306

EXAMINER
BACKER, FIRMIN

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 06/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

-- Th MAILING DATE of this communication appears on th cover sheet with the corr spondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>16 February 2000</u> .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-21</u> is/are pending in the application.

 4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-21</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

 If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

 a)☐ All b)☐ Some * c)☐ None of:

  1.☐ Certified copies of the priority documents have been received.

  2.☐ Certified copies of the priority documents have been received in Application No. _____ .

  3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
   application from the International Bureau (PCT Rule 17.2(a)).

 * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

 a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)   4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)☐ Notice of Informal Patent Application (PTO-152)

3)☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . 6)☐ Other: .

DETAILED ACTION

This is in response to a letter for patent filed on February 16th, 2000 in which claims 1-20 are

presented for examination. Claims 1-20 are pending in the letter.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United
> States before the invention thereof by the applicant for patent, or on an international application by another who
> has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention
> thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) do not apply to the examination of this application as the application being examined

was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C.

122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment

by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2.   Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Eller et al (U.S.

Patent No. 5,889,860 *(applicant IDS))*.

3.   As per claim 1, Eller et al teach a method of encoding or encrypting data *(encryption secured computer system, 10)*, comprising: providing an assembly of information-bearing sounds (ISA) *(database that includes various type of information such as digital music, literary or artistic works) (see fig 1, column 2 lines 15-47, 4 lines 15-64)* removing one or more selected segments of the assembly, to produce a specified data file *(see fig 1, column 2 lines 15-47, 4 lines 15-64)* providing an encoding/encryption key and encoding or encrypting the specified data file *(see fig 1, column 2 lines 15-47, 4 lines 15-64)* and communicating the encoded or encrypted specified data file in a first selected communication channel and communicating the removed segments in a second selected communication channel *(column 2 lines 63-3 line 14, 5 lines 14-64)*.

4.   As per claim 2, Eller et al teach a method further comprising providing a data supplement that indicates at least one of: location of at least one of the removed segments within the ISA; size of at least one of the removed segments within the ISA number of segments removed; separation distance between two consecutive removed segments within the ISA; and a selected portion of the encoding/encryption key; and communicating the data supplement in the second selected communication channel *(see fig 1, column 2 lines 15-47, 4 lines 15-64)*.

5.   As per claim 3, Eller et al teach a method further comprising providing the encoding/encryption key with at least one key parameter that uses information from at least one of the removed segments *(see column 8 lines 35-44)*.

6.   As per claim 4, Eller et al teach a method further comprising selecting the first and

second communication channels to be the same channel (*see column 8 lines 35-44*).

7.   As per claim 5, Eller et al teach a method further comprising providing the second

channel as a secure communication channel (*see column 8 lines 35-44*).

8.   As per claim 6, Eller et al teach a method further comprising concatenating the removed

segments and the data supplement as a concatenated data file (*see column 8 lines 35-44*).

9.   As per claim 7, Eller et al teach a method further comprising encrypting the specified

data file using cipher block chaining of at least one block of the concatenated data file and at

least one encrypted block from the specified data file *(see fig 1, column 2 lines 15-47, 4 lines 15-

64)*.

10.   As per claim 8, Eller et al teach a method further comprising providing the at least one

encoding/encryption parameter for the encoding/encryption key by providing a block of the

concatenated data file as an initial block for the at least one encrypted block of the data *(see fig 1,

column 2 lines 15-47, 4 lines 15-64)*.

11.   As per claim 9, 10, Eller et al teach a method further comprising removing at least first

and second segments from the data file, where the first segment and the second segment have

equal length or different lengths *(see fig 1, column 2 lines 15-47, 4 lines 15-64)*.

12.   As per claim 11, Eller et al teach a method further comprising combining the removed

segments with the specified data file to form a combined data file and reproducing the combined

data file as an assembly of sounds *(see fig 1, column 2 lines 15-47, 4 lines 15-64)*.

13.   As per claim 12, Eller et al teach a method of decoding or decrypting data, comprising:

providing an encoded or encrypted first data file *(see fig 1, column 2 lines 15-47, 4 lines 15-64)*

providing a second data file and a data supplement that indicates at least one of: an assigned

location of at least one designated segment of the second data file within a non-coded and

non-encrypted version of the first data file *(see column 8 lines 35-44)* size of at least one

designated segment of the second data file within the non-coded and non-encrypted first data

file; number of selected segments designated *(see fig 1, column 2 lines 15-47, 4 lines 15-64)*;

separation distance of at least two consecutive designated segments of the second data file within

the non-coded and non-encrypted first data file; and a selected portion of an encoding/encryption

key used to encode or encrypt the first data file *(see column 8 lines 35-44)*, and using the data

supplement to decode or decrypt the encoded or encrypted first data file and to position at least a

first sequence and a second sequence, drawn from the second data file, within the first data file

(see fig 1, column 2 lines 15-47, 4 lines 15-64).

14.   As per claim 13-20, They disclosed the same inventive concept as claims 2-11.

Therefore, they are rejected under the same rationale.

15.   As per claim 21, Eller et al teach a method of communicating data, the method

comprising providing an assembly of information-bearing sounds as a digital file of data

removing one or more selected segments from the data file *(see fig 1, column 2 lines 15-47, 4*

lines 15-64), to produce a specified data file having at least a first block and a second block,

providing an encoding/encryption key having at least a first key portion and a second key portion

(see fig 1, column 2 lines 15-47, 4 lines 15-64), providing a data supplement that indicates at

least one of: location of at least one of the removed segments within the data file *(see column 8*

lines 35-44), size of at least one of the removed segments within the data file; number of

segments removed *(see fig 1, column 2 lines 15-47, 4 lines 15-64)* separation distance between

two consecutive removed segments within the data file; and at least a portion of the

encoding/encryption key; encoding or encrypting the first block and the second block of the

specified data file, using the first portion and the second portion, respectively, of the

encoding/encryption key; and communicating the encoded or encrypted specified data file in a

first selected communication channel and communicating the removed segments and the data

supplement in a second selected communication channel *(see fig 1, column 2 lines 15-47, 4 lines*
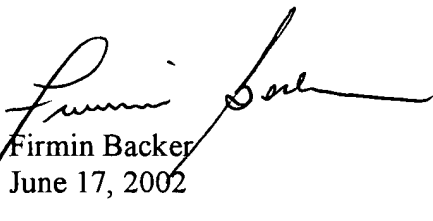
15-64).

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The

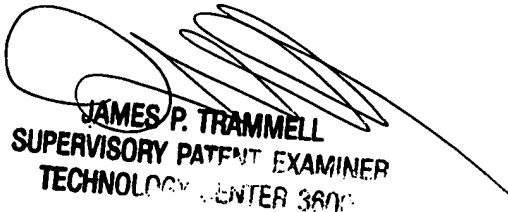examiner can normally be reached on Mon-Thu 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, James Trammel can be reached on (703) 305-9768. The fax phone numbers for the

organization where this application or proceeding is assigned are (703) 305-7687 for regular

communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 308-1113.

Firmin Backer/
June 17, 2002

JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600